

1991

David Mark Newton Wheeler through Mark Wayne Wheeler v. Stanley C. Mann : Unknown

Utah Supreme Court

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JUL 3 1988

IN THE UTAH SUPREME COURT

David Mark Newton Wheeler, a minor,)	APPELLANT'S OPPOSITION TO
child, by and through his Guardian)	SUPREME COURT RULING FILED
ad Litem, Mark Wayne Wheeler,)	June 30, 1988
)	
Plaintiff and Appellee)	
)	
vs.)	Case No. 19730
)	
Stanley C. Mann,)	
)	
Defendant and Appellant)	
)	

Appellant, Stanley c. Mann, submits the following response in opposition to the Supreme Court's Ruling handed down on June 30, 1988.

Appellant alleges the Court erred in holding that appellant:

1. "Did not assert before Trial Court that the terms of the trust instrument entitled him to invest trust monies in, or to lend trust monies to, his own companies; nor did he refer to the above quoted language." (emphasis added.)
2. The Court erred in declining to consider the above argument.
3. The Court erred by ignoring the violation of designation of alternate trustee of the trust, set up by Joan Newton Wheeler.

4. Justice Christine M. Durham erred in not recusing herself from participating in the deliberation and Ruling on this matter.

In support of his position, appellant respectfully shows:

ARGUMENT

1.(a) There was never any Trial Court. It was because of this that appeal was filed.

(b) At the one hearing, held on August 18, 1983 in the court of Judge J. Dennis Frederick relative to the Partial Summary Judgment, the very assertion the Court denies was made, did occur and the very same case cited by the Court, was cited by appellant. (Transcript of Hearing, August 18, 1983, beginning on Page 27, Line 20 through Page 28, ending with Line 16) (ADDENDUM No. 1). The Dipo v Dipo case was cited in appellant's brief, on Page 16 and in paragraph IX.(g) Page three (3) of the will. The very words the Court's findings stated was not used, is cited and discussed, on Page 14 and Page 15 of appellant's brief, filed May 21, 1984.

2. No one, who read the brief, or perused the documents, could honestly deny the existence of these documents, or hold to their ruling to not consider this argument, in light of these documents.

3. The Court erred in ignoring appellant's argument, under Point V. Joan Newton Wheeler named an alternate trustee, in the event appellant, Stanley C. Mann could not act. The alternate trustee was Joan Newton Wheeler's sister, Gail H. Taylor. Gail Taylor was never contacted

or even considered as trustee, as so provided in the Trust, and merely because Mr. Wayne Wadsworth's family client did not want her as trustee. (Transcript of Hearing, August 18, 1983, Page 37, and Page 38. (ADDENDUM No. 1).

No Court has the right to violate the constitutional rights of another and to violate the statutes, relative to a properly drawn and executed Will and Trust of another.

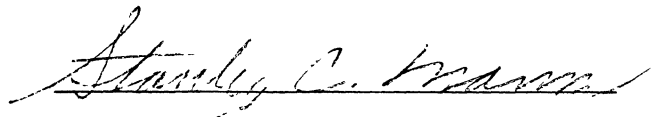
Appellant firmly believes the point was intentionally ignored. There is no Statute, Rule or Precedent, which gives any Court of Utah, or the U. S., the right to so cancel an individual's rights and void the Statutes, duly passed by the Legislature, regarding the rights of individuals executing Wills and Trusts.

4. Judge Christine M. Durham held an ex-parte hearing, at which she appointed Mark W. Wheeler Guardian ad Litem of David Newton Wheeler. At that hearing, it was alleged appellant, Stanley C. Mann was implicated in an attempt to kill Mark Wheeler. This was a totally false accusation and known to be false by Mark Wheeler's attorney and brother-in-law, H. Wayne Wadsworth.

CONCLUSION

The Supreme Court Ruling should be reversed, on the basis of the obvious errors made in the Findings of Fact, upon which the Court has stated it based its Ruling.

Dated this 8th day of July, 1988.


Stanley C. Mann, Pro se.,

NOTICE OF SERVICE

I hereby certify that I mailed a true and correct copy of
APPELLANT'S OPPOSITION TO SUPREME COURT RULING FILED June 30, 1988,
Postage Prepaid this 8th day of July, 1988, to:

Brent V. Manning
William D. Holyoak
Attorneys at Law
Holme, Roberts & Owen
50 South Main
Salt Lake City, Ut. 84101

Louise S. Mann

ADDENDUM 1

COPY

1 IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
2 IN AND FOR SALT LAKE COUNTY, STATE OF UTAH
3 -----

4 DAVID MARK WHEELER, :
5 PLAINTIFF, :
6 VS. : NO. C-79-4063
7 STANLEY C. MANN, :
8 DEFENDANT. :
9 -----

10 BEFORE THE HONORABLE J. DENNIS FREDERICK, JUDGE
11 MOTION FOR PARTIAL SUMMARY JUDGMENT
12 AUGUST 18, 1983
13

14 APPEARANCES:

15 FOR THE PLAINTIFF:	BRENT V. MANNING
16	HOLME, ROBERTS & OWEN
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18 FOR THE DEFENDANT	STANLEY C. MANN
19 PRO SE:	P. O. BOX 27317
	SALT LAKE CITY, UTAH 84127

20
21 -----
22
23
24
25

1 TRUE. I WANT TO READ YOU A COUPLE OF PARAGRAPHS AS I
2 STATED, AS LONG AS MR. MANNING GIVES SOME BACKGROUND, I
3 WANT TO TELL YOU WHY MY WIFE WAS NAMED IN THAT MURDER
4 CHARGE, NOT BECAUSE SHE WAS MARRIED TO ME FOR 29 YEARS AND
5 WORKED WITH ME IN THE COMPANY, AND THEY KNEW WE WERE VERY
6 CLOSE, SHE WAS VERY FAMILIAR IN THAT BECAUSE IT SAYS ON
7 PAGE 2 OF THE WILL, I APPOINT STANLEY C. MANN AND LOUISE
8 C. MANN AS JOINT GUARDIAN OF MY MINOR CHILD AND OF THE
9 ESTATE OF MY MINOR CHILD TO SERVE WITHOUT BOND. IN THE
10 SUIT THAT MR. WHEELER HAS GOT AGAINST THE AIRLINES FOR
11 WRONGFUL DEATH THAT HE FILED AND GOT GOING EVEN THOUGH IT
12 SHOULD GO INTO THE TRUST, UNDER THE LAW IT'S MY UNDERSTAND-
13 ING THAT EVEN IF THEY REMOVE ME, MY WIFE WOULD BE IN CHARGE
14 OF THAT ESTATE, AND THAT WAS THE LAST MINUTE, BECAUSE WHEN
15 THEY-- THEY SAID TO MR. WHEELER, WELL, DO YOU KNOW OF
16 ANYTHING THAT IMPLICATES MRS. MANN, AND HE SAID, WELL,
17 SHE'S NAMED IN THE WILL, ISN'T SHE? THAT'S WHAT HE SAID
18 IN HIS DEPOSITION. THAT'S THE REASON THAT THEY NAMED
19 HER.

20 NOW, WHEN IT'S TALKING HERE ABOUT POWERS OF
21 FIDUCIARIES UNDER NO. 9 IN THE WILL, THE FIDUCIARY SHALL
22 HAVE THE POWER TO CONVERT ANY PROPERTY OF BUSINESS INTEREST
23 HELD BY THE FIDUCIARY OR IN THE LIMITED PARTNERSHIP IF THE
24 FIDUCIARY JUDGMENT IS ADVISABLE TO DO SO. I WANT TO GO
25 DOWN TO G. THE FIDUCIARY MAY INVEST OR REINVEST FUNDS OR

1 ASSETS AS MAY BE OF PRUDENCE OR DISCRETION. I PUT MORE OF
2 MY OWN MONEY INTO THAT COMPANY AFTER TRUST MONEY WENT INTO
3 THAT COMPANY. SO I THINK I FELT IT WAS THERE, AND I PUT
4 SEVEN YEARS OF LABOR FOR NOTHING INTO IT, INTO THIS OWN
5 ACCOUNT, HAVING REGARD NOT TO SPECULATION BUT TO PERMANENT
6 DISPOSITION OF THEIR FUNDS AND CONSIDERING A PROBABLE INCOME
7 AS WELL AS A PROBABLE SAFETY OF THIS CAPITAL INCLUDING BUT
8 NOT BY WAY OF LIMITATION, TRUST FUNDS, SHARES, AND OBLIGA-
9 TIONS OF THE FIDUCIARY AND ERRORS AND OBLIGATIONS OF ANY
10 AFFILIATES OF THE FIDUCIARY, WHETHER OR NOT THE CHARACTER
11 OTHERWISE PERMITTED BY THE LAW FOR THE INVESTMENT OF FUNDS
12 FOR A FIDUCIARY.

13 IT SAYS WHETHER OR NOT IT'S PERMITTED BY LAW,
14 AND IF I'M NOT MISTAKEN, THE UTAH SUPREME COURT IN 1974 IN
15 DIP VS. DIP SAID THAT THE TERMS OF A TRUST UNLESS A LEGAL
16 OR AGAINST PUBLIC POLICY RULE OVER STATUTE. I PUT THAT IN
17 THERE BECAUSE MY BISHOP COMES AND SAYS I HAVE TALKED WITH
18 THEIR BISHOP. THEY'RE GOING TO TRY AND TWIST THAT WILL
19 AROUND AND ADOPT DAVID AND SEE IF THEY CAN GET THAT MONEY.
20 DID YOU KNOW THEY ARE GOING TO BREAK THAT TRUST? DID YOU
21 KNOW THAT WHEN SHE WAS KILLED BEFORE THE INSURANCE COMPANY
22 HAD PAID THE MONEY OUT TO ME, MR. WHEELER HIRED ANOTHER
23 EX-BROTHER-IN-LAW, A DAVID YOUNG, HERE IN SALT LAKE, WHO
24 WE WILL TALK ABOUT LATER, AND WAS WRITING LETTERS TO THE
25 INSURANCE COMPANIES TELLING THEM DON'T PAY OFF TO MR. MANN.

1 YOND THE SCOPE OF WHAT THIS COURT IS EXAMINING TODAY.

2 MR. MANN: YOUR HONOR, IF I MAY MAKE TWO COMMENTS.
3 NUMBER ONE, I BELIEVE THAT THE STATEMENT IS RELEVANT BE-
4 CAUSE IT SHOWS THEY INTENTIONALLY DESTROYED THOSE COMPANIES
5 BECAUSE THEY KNEW THE TRUST MONEY WAS THERE, THAT IT WAS
6 THEIR DOING TO DESTROY THAT AND BLEW UP THE VALUE OF IT
7 TO TRY AND SINK THE BONDING COMPANY. THE OTHER POINT THAT
8 I WANT TO MAKE, I REALIZE WHAT YOU ARE TELLING ME, BUT I
9 STILL SAY AGAIN THE COURT IS VIOLATING JOAN NEWTON
10 WHEELER'S RIGHTS, AND I READ FROM HER WILL, PAGE 2, WHERE
11 IT SAYS:

12 "APPOINTMENT OF FIDUCIARIES, ITEM
13 7, I APPOINT STANLEY C. MANN TO
14 BE EXECUTOR OF MY WILL AND SERVE
15 WITHOUT BOND. IN THE EVENT STANLEY
16 C. MANN DIES, DECLINES TO ACT OR
17 OTHERWISE DOES NOT SERVE AS EXECUTOR
18 OF MY WILL, I APPOINT GAIL H. TAYLOR..."
19 AND THAT'S HER OTHER SISTER.
20 "...AS EXECUTRIX OF MY WILL TO SERVE
21 WITHOUT BOND."

22 I'M SAYING, SEE, I OFFERED TO PUT THIS IN A
23 CORPORATE TRUSTEE IF THEY WOULD NOT TRY TO BREAK IT, AND
24 THEY WOULD NOT ACCEPT THAT. WAY BACK IN 1979, I'M SAYING
25 THAT THEY ARE INTENTIONALLY TRYING TO BY-PASS HER WILL

1 AND RIGHTS AGAIN BY BY-PASSING THE SECOND PERSON THAT SHE
2 NAMED WHO WAS HER SISTER BECAUSE THEY KNOW THAT THEY
3 WOULDN'T GET THEIR HANDS ON THAT MONEY EVEN IF GAIL TAYLOR
4 WAS THERE, AND I DON'T BELIEVE THAT THE COURT SHOULD HAVE
5 APPOINTED THE FIRST INTERSTATE BANK EITHER. I THINK THE
6 COURT SHOULD HAVE APPOINTED GAIL H. TAYLOR. AFTER ALL,
7 THAT IS WHAT HER WILL AND TRUST SAYS RIGHT HERE, THAT IF
8 I'M DEAD OR UNABLE TO ACT, I APPOINT GAIL H. TAYLOR, AND
9 I THINK THAT OUGHT TO BE HER RIGHT. THAT WAS MY SECOND
10 POINT.

11 I WANT TO JUST MENTION IN SUMMING UP, THE UTAH
12 RULES OF CIVIL PROCEDURE, 56, SUMMARY JUDGMENT, C, FOUR
13 LINES DOWN, JUDGMENT SOUGHT SHALL BE RENDERED FORTHWITH
14 IF THE PLEADINGS, THE DEPOSITIONS, THE ANSWERS TO INTERROGA-
15 TORIES AND ADMISSIONS ON FILE TOGETHER WITH THE AFFIDAVITS,
16 IF ANY, SHOWED THAT THERE IS NO GENUINE ISSUE AS TO MATERIAL
17 FACT AND THAT THE MOVING PARTY IS ENTITLED TO A JUDGMENT
18 AS A MATTER OF LAW. I'M SAYING THERE IS A MATERIAL ISSUE
19 OF WHETHER OR NOT, ACCORDING TO THE SUPREME COURT RULING
20 OF 74 IN DEPLOY VS. DEPLOY, WHETHER OR NOT I HAD THE RIGHT
21 TO DO THAT. THEY SAID IT SUPERSEDES ANY STATUTE, AND I'M
22 SAYING THAT A SUMMARY JUDGMENT IS A DRASTIC ACTION FOR
23 SOMEONE TO TAKE SOMETHING SO COMPLEX AS THIS AND ESPECIALLY
24 IF YOU GO ON THE BASIS OF A DOCUMENT THAT YOU COULD NOT
25 EVEN SELL PROBABLY TO A GERMAN MAGAZINE. IT'S GOT THAT